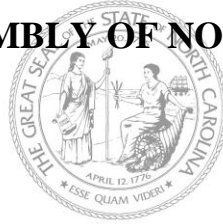


# GENERAL ASSEMBLY OF NORTH CAROLINA



## FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

**DATE:** May 21, 2014

**TO:** Chairs of the Public Utilities and Energy Committee

**FROM:** Timothy Dale  
Fiscal Research Division

**RE:** Fiscal Memo for HB 1052

### FISCAL IMPACT

(\$ in millions)

☒ Yes

☐ No

☐ No Estimate Available

State Impact	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
Special Fund Revenues:	\$0 to \$0	(\$0.82) to (\$1.06)	(\$1.10) to (\$1.46)	(\$1.10) to (\$1.46)	(\$1.10) to (\$1.46)
Special Fund Expenditures:	\$0 to \$0	\$0 to \$0	\$0 to \$0	\$0 to \$0	\$0 to \$0
State Positions:	N/A	N/A	N/A	N/A	N/A
<b>NET STATE IMPACT</b>	<b>\$0 to \$0</b>	<b>(\$0.82) to (\$1.06)</b>	<b>(\$1.10) to (\$1.46)</b>	<b>(\$1.10) to (\$1.46)</b>	<b>(\$1.10) to (\$1.46)</b>

**PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:** Utilities Commission & Public Staff

**EFFECTIVE DATE:** July 1, 2015

**TECHNICAL CONSIDERATIONS:** Yes - See Technical Considerations Section

## BILL SUMMARY:

### Section 1

Section 1 of the bill adds new definitions for the types of jurisdictional utility revenues that are subject to the public utility regulatory fee. “Non-competitive” jurisdictional revenues will continue to be assessed the public utility regulatory fee established by the General Assembly. “Competitive” jurisdictional revenues will be assessed a lower regulatory fee that is established in statute. Competitive jurisdictional revenues are separated into two categories:

1. Subsection (h) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(h).
2. Subsection (m) competitive jurisdictional revenues – revenues derived from retail services provided by local exchange companies and competing local providers that elected to operate under G.S. 62-133.5(m).

Section 1 also directs the Utilities Commission to adjust established utility rates to allow for the recovery of any future increases in regulatory fees. As an alternative, the Commission may approve a utility's request to defer any future fee increases.

**Section 2(a)**

For FY 2015-16, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(h) will be set at 0.06%.

**Section 2(b)**

Beginning July 1, 2016, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(h) will be decreased from 0.06% to 0.04%.

**Section 3(a)**

For FY 2015-16, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(m) will be decreased to 0.05%.

**Section 3(b)**

Beginning July 1, 2016, the regulatory fee applied to retail service revenue of public utilities operating under G.S. 62-133.5(m) will be decreased from 0.05% to 0.02%.

**Section 4**

Section 4 states that the regulatory fee applied to non-competitive jurisdictional revenues will be increased to generate sufficient revenue to offset revenue lost from the fee reductions detailed in Sections 2(a), 2(b), 3(a), and 3(b).

## ASSUMPTIONS AND METHODOLOGY:

### Background

There are currently five types of regulation on telecommunication providers in the State:

- 1) Price-Plan Regulation
- 2) Rate-of-Return Regulation
- 3) G.S. 62-133.5(h)
- 4) G.S. 62-133.5(m)
- 5) Certification

There are two types of regulated entities that would be eligible to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m):

- 1) Incumbent Local Exchange Companies (ILECs)
- 2) Competing Local Providers (CLPs)

Telecommunication providers can elect to be regulated under any of the regulation types listed above, with the exception that only CLPs are eligible for the certification process.

Information supplied by the Utilities Commission for the 2012 Calendar Year details the entity participation by regulation type as displayed in Table 1:

Table 1: Number of Providers by Regulation Type

Regulation Type	Number of ILECs	Number of CLPs
Price-Plan	4	0
Rate-of-Return	1	0
G.S. 62-133.5(h)	10	5
G.S. 62-133.5(m)	1	8
Certification	0	161

The same information provided by the Commission included jurisdictional revenues and regulatory fees paid to the Commission from all regulated entities. In addition, 10 of the 16 ILECs provided a breakdown between “competitive” or retail revenues and “non-competitive” or wholesale revenues. The same breakdown was not available for any CLPs.<sup>1</sup>

In CY 2012, jurisdictional revenues received by all ILECs and CLPs totaled \$1,595,297,288. Of this amount, \$1,083,469,223 was derived from the 10 of 16 ILECs providing a breakdown of wholesale and retail revenues. The retail revenues reported by these 10 ILECs totaled \$894,596,745, or 83% of their total jurisdictional revenues.

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<sup>1</sup> See Technical Consideration 2.

### Assumptions

For this analysis, the percentage of revenues derived from retail operations as reported by 10 of the 16 ILECs (83%) will be applied to the total jurisdictional revenues within the State to calculate total retail jurisdictional revenues. When the experience from the 10 reporting ILECs is applied to total jurisdictional revenue for all ILECs and CLPs, the result is total retail jurisdictional revenue of \$1,324,096,749.

All ILECs and CLPs listed above can elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m). The likelihood of a provider electing to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will vary among each provider. Since providers opting to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) will pay a lower regulatory fee on retail revenues, an incentive exists for eligible providers to elect to be regulated under these statutes. If more providers choose to be regulated under these statutes, the fiscal impact on the Utilities Commission will increase. Since all ILECs and CLPs are eligible, but must elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m), three scenarios are presented below:

1) **Status Quo**

This scenario assumes that providers continue to be regulated as they were regulated in 2012.

2) **G.S. 62-133.5(m) Only**

In the proposed legislation, the regulatory fee for retail revenue is the lowest for G.S. 62-133.5(m) regulated providers. This scenario assumes that all providers elect to be regulated under G.S. 62-133.5(m).

3) **Best Estimate**

This scenario provides staff's best estimate of the actual fiscal impact. Staff assumes that all eligible providers elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m), with jurisdictional revenue divided equally amongst the two regulatory types.

### ***Status Quo***

In this scenario, no providers choose to change their existing type of regulation following a fee reduction to providers regulated by G.S. 62-133.5(h) or G.S. 62-133.5(m). Total jurisdictional revenues for G.S. 62-133.5(h) and G.S. 62-133.5(m) providers were \$560,595,932 and \$746,796,940 respectively. Estimated fee reduction impacts are presented in Table 2:

Table 2: Scenario 1 – Status Quo

	<b>G.S. 62-133.5(h)</b>	<b>G.S. 62-133.5(m)</b>
<b>Total Juris. Revenue</b>	\$560,595,932	\$746,796,940
<b>Estimated Retail Revenue</b>	\$465,294,624	\$619,841,460
<b>FY 2015-16 Fee Reduction</b>	(\$325,706)	(\$495,873)
<b>FY 2016-17 Fee Reduction</b>	(\$418,765)	(\$681,826)

***G.S. 62-133.5(m) Only***

In this scenario, all providers opt to be regulated under G.S. 62-133.5(m) due to the decreased regulatory oversight fee. Total jurisdictional revenue for all ILECs and CLPs eligible to be regulated under G.S. 62-133.5(m) is \$1,595,297,288. Estimated fee reduction impacts are presented in Table 3:

Table 3: Scenario 2 – G.S. 62-133.5(m) Only

	<b>G.S. 62-133.5(m)</b>
<b>Total Juris. Revenue</b>	\$1,595,297,288
<b>Estimated Retail Revenue</b>	\$1,324,096,749
<b>FY 2015-16 Fee Reduction</b>	(\$1,059,278)
<b>FY 2016-17 Fee Reduction</b>	(\$1,456,507)

***Best Estimate***

A variety of factors can influence a provider's election of regulatory coverage. Some examples would include ease of rate increases, positioning for funding from a possible universal service fund, inertia, cost of regulation, etc. Accurately forecasting which providers elect certain types of regulation in a lower-fee environment is improbable. As a result, staff has assumed that if the bill were to become law, all eligible providers will elect to be regulated under G.S. 62-133.5(h) or G.S. 62-133.5(m) and jurisdictional revenues would be split equally between the regulatory types. Estimated fee reduction impacts are presented in Table 4:

Table 4: Scenario 3 – Best Estimate

	<b>G.S. 62-133.5(h)</b>	<b>G.S. 62-133.5(m)</b>
<b>Total Juris. Revenue</b>	\$797,648,644	\$797,648,644
<b>Estimated Retail Revenue</b>	\$662,048,375	\$662,048,375
<b>FY 2015-16 Fee Reduction</b>	(\$463,434)	(\$529,639)
<b>FY 2016-17 Fee Reduction</b>	(\$595,844)	(\$728,253)

To compare the estimated fiscal impacts of the fee reductions based on the three scenarios presented above, please refer to Table 5:

Table 5: Projected Competitive Revenue Fee Reduction Impact on NCUC/ Public Staff

<b>Fee Reduction Impact on NC Utilities Commission/ Public Staff Revenue</b>					
	<b>FY 2014-15 (\$)</b>	<b>FY 2015-16 (\$)</b>	<b>Δ Fee Revenue (\$)</b>	<b>FY 2016-17 (\$)</b>	<b>Δ Fee Revenue (\$)</b>
<b>Scenario 1 (Status Quo)</b>	\$14,662,857	\$13,841,278	(\$821,579)	\$13,562,266	(\$1,100,591)
<b>Scenario 2 (G.S. 62- 133.5(m) Only)</b>	\$14,662,857	\$13,603,579	(\$1,059,278)	\$13,206,350	(\$1,456,507)
<b>Scenario 3 (Best Estimate)</b>	\$14,662,857	\$13,669,784	(\$993,073)	\$13,338,760	(\$1,324,097)

Section 4 of the bill states that the regulatory fee applied to non-competitive jurisdictional revenues shall be adjusted to reflect the decrease in fees collected from competitive jurisdictional revenues.<sup>2</sup> While the bill does not adjust the regulatory fee, Table 6 displays the associated percentage increases necessary to offset revenue lost from the lower fee applied to competitive jurisdictional revenues.

Table 6 – Non-Competitive Revenue Fee Adjustment Necessary to Replace Reduced Receipts

<b>Fee Increase to Maintain NC Utilities Commission/ Public Staff Revenue</b>						
	<b>FY 2015-16 Δ Fee Revenue (\$)</b>	<b>Fee Increase (%)</b>	<b>New Regulatory Fee (%)</b>	<b>FY 2016-17 Δ Fee Revenue (\$)</b>	<b>Fee Increase (%)</b>	<b>New Regulatory Fee (%)</b>
<b>Scenario 1 (Status Quo)</b>	(\$821,579)	.008%	0.138%	(\$1,100,591)	.011%	0.141%
<b>Scenario 2 (G.S. 62- 133.5(m) Only)</b>	(\$1,059,278)	.011%	0.141%	(\$1,456,507)	.015%	0.145%
<b>Scenario 3 (Best Estimate)</b>	(\$993,073)	.010%	0.140%	(\$1,324,097)	.013%	0.143%
Note: Percentages rounded to the nearest one-thousandth of one percent *Utility regulatory fee is set at 0.13% for FY 2013-15						

**SOURCES OF DATA:** Utilities Commission, Public Staff

#### **TECHNICAL CONSIDERATIONS:**

- 1) Section 4 of the bill directs the regulatory fee for the Utilities Commission to be adjusted to offset any revenue lost as a result of Sections 2 and 3 of the bill. However, pursuant to

<sup>2</sup> See Technical Consideration 1.

G.S. 62-302(b)(2), the regulatory fee is either a percentage rate established by the General Assembly or \$6.25 for each quarter.

Currently, the General Assembly establishes the regulatory fee during the appropriations process. If the bill becomes law in its current form, Section 4 does not change current practice. The Utilities Commission would receive revenue resulting from the regulatory fee established by the next General Assembly.

For this bill to offset revenue reductions described in Sections 2 and 3 of this bill, the bill must either establish the regulatory fee for FY 2015-16 and FY 2016-17, or insert the regulatory fee in statute.

- 2) The Commission currently does not receive revenue information from telecommunication providers that separates retail service revenues from total jurisdictional revenues. Some providers may classify this information as trade secret information. For fee reporting purposes, requiring revenue reporting that lists retail revenue may be desired.